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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/070,269	04/30/1998	DEREK J HARPER	P-7726	4260
7590	04/07/2005		EXAMINER	MAIORINO, ROZ
Charles W. Shifley Banner and Witcoff, LTD 10 South Wacker Drive Suite 3000 Chicago, IL 60606			ART UNIT	PAPER NUMBER
			3763	
			DATE MAILED: 04/07/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/070,269	HARPER, DEREK J	
	Examiner Roz Maiorino	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 January 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-28 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the barrel having a single terminal" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the female lure connector creating the single barrel terminal" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the barrel having a single terminal" in line 4; and "the female lure connector creating the single barrel terminal" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the barrel having a single terminal" in line 4; and "the female lure connector creating the single barrel terminal" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "the barrel having a single terminal" in line 4; and "the female lure connector creating the single barrel terminal" in line 9. There is insufficient antecedent basis for this limitation in the claim

Claim 19 recites the limitation "a single terminal" in line 3; and "the means creating the single barrel terminal" in line 9. There is insufficient antecedent basis for this limitation in the claim

***Specification***

2. The amendment filed 1/21/2005 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "the barrel having a single terminal"; and "the female lure connector creating the single barrel terminal". Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5676656 to Brimhall.

Brimhall teaches a hollow barrel having a barrel lumen and barrel having axis that coaxial with the barrel lumen; a hollow catheter connecting protrusion 20 attached to and extending away from the barrel, the catcher connection protrusion sized to fit within the catheter, the catheter connection protrusion lumen being in fluid communication with the barrel lumen, the catheter connection protrusion having a terminal end opposite the barrel; a pair of anchoring protrusions 29 attached to and extending away from the barrel, the anchoring protrusion being formed essentially in a plane; a female lure connector 22 attached to the barrel opposite the catheter connection protrusions; the female lure connector having a female lure axis that extends through and is coaxial with the female lure that is not coaxial with the barrel axis, where the barrel axis is between 15-90 degrees.

4. Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5697914 to Brimhall.

Brimhall teaches a hollow barrel having a barrel lumen and barrel having axis that coaxial with the barrel lumen; a hollow catheter connecting protrusion 20 attached to and extending away from the barrel, the catcher connection protrusion sized to fit within the catheter, the catheter connection protrusion lumen being in fluid communication with the barrel lumen, the catheter connection protrusion having a terminal end opposite the barrel; a pair of anchoring protrusions 31 attached to and extending away from the barrel, the anchoring protrusion being formed essentially in a plane; a female lure connector 50 attached to the barrel opposite the catheter connection protrusions; the female lure connector having a female lure axis that extends through and is coaxial with

the female lure that is not coaxial with the barrel axis, where the barrel axis is between 15-90 degrees.

5. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5935110 to Brimhall.

Brimhall teaches a hollow barrel 21 having a barrel lumen and barrel having axis that coaxial with the barrel lumen; a hollow catheter connecting protrusion 20 attached to and extending away from the barrel, the catcher connection protrusion sized to fit within the catheter, the catheter connection protrusion lumen being in fluid communication with the barrel lumen, the catheter connection protrusion having a terminal end opposite the barrel; a pair of anchoring protrusions attached to and extending away from the barrel, the anchoring protrusion being formed essentially in a plane; a female lure connector 50 attached to the barrel opposite the catheter connection protrusions; the female lure connector having a female lure axis that extends through and is coaxial with the female lure that is not coaxial with the barrel axis, where the barrel axis is between 15-90 degrees.

6. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 4326519 to D' Alo et al.

D' Alo teaches a hollow barrel having a barrel lumen and barrel having axis that coaxial with the barrel lumen; a hollow catheter connecting protrusion 12 attached to and extending away from the barrel, the catcher connection protrusion sized to fit within the catheter, the catheter connection protrusion lumen being in fluid communication with the barrel lumen, the catheter connection protrusion having a terminal end opposite the

barrel; a pair of anchoring protrusions 58, 60 attached to and extending away from the barrel, the anchoring protrusion being formed essentially in a plane; a female lure connector 72 attached to the barrel opposite the catheter connection protrusions; the female lure connector having a female lure axis that extends through and is coaxial with the female lure that is not coaxial with the barrel axis, where the barrel axis is between 15-90 degrees.

***Response to Arguments***

7. Applicant's arguments filed 1/21/2005 have been fully considered but they are not persuasive. Applicant has amended the claims to read female lure creating a single terminal. As mentioned above the specification has no description of such a single terminal and hence this amendment is new matter. However even if such a single terminal was described in the application Brimhall 656 still reads on it. As admitted by the applicant Brimhall needle hub extends beyond the port, which forms a single terminal to the barrel.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Maiorino whose telephone number is 571- 272-4960. The examiner can normally be reached on 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4377. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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